

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOHN W. KELLY,) CASE NO. 4:10CV410
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PETITIONER,) JUDGE SARA LIOI
)
)
vs.) ORDER
)
)
MICHELE MILLER, Warden,)
)
)
RESPONDENT.)
)

Before the Court is the report and recommendation of the Magistrate Judge in the above-entitled action. Under the relevant statute:

[. . .] Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C). In this case, the fourteen-day period has elapsed and no objections have been filed. The failure to file written objections to a Magistrate Judge's report and recommendation constitutes a waiver of a de novo determination by the district court of an issue covered in the report.

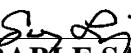
Thomas v. Arn, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985), *reh'g denied*, 474 U.S. 1111 (1986); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the Magistrate Judge's report and recommendation and accepts the same. Accordingly, the above captioned petition for writ of habeas corpus is **DISMISSED**. Further, the Court **CERTIFIES** that an appeal from this decision could not be taken

in good faith and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §§ 1915(a)(3), 2253(c); Fed.R.App.P. 22(b).

IT IS SO ORDERED.

Dated: February 4, 2011


HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE